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THE RIGHT TO DEVELOPMENT

Report of the High Commissioner for Human Rights submitted in accordance with Commission on Human Rights resolution 1998/72

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Introduction

1. In its resolution 1998/72, the Commission on Human Rights invited the United Nations High Commissioner for Human Rights to present a report to the Commission each year for the duration of the follow-up mechanism established pursuant to paragraph 10 of that resolution and to provide interim reports to the open-ended working group on the right to development, in each case covering:

(a) The activities of her Office relating to the implementation of the right to development as contained in her mandate;

(b) The implementation of resolutions of the Commission on Human Rights and the General Assembly with regard to the right to development;

(c) Inter-agency coordination within the United Nations system for the implementation of relevant resolutions of the Commission in that regard.

2. The present report is submitted to the open-ended working group on the right to development at its third session and the Commission on Human Rights at its fifty-eighth session, in response to that resolution.

I. ACTIVITIES OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS RELATING TO THE IMPLEMENTATION OF THE RIGHT TO DEVELOPMENT

3. The Office of the High Commissioner for Human Rights (OHCHR) continues to provide administrative, technical and substantive support to the open-ended working group on the right to development and the independent expert on the right to development. In particular, the Office of the High Commissioner provided research and technical support for three missions of the independent expert in 2001. The first two missions focused on the impact of financial crises such as the Asian financial crisis of 1997 on the enjoyment of the right to development. The first mission took place in January 2001 to the Philippines and Indonesia and the second mission took place in May 2001 to Malaysia and Singapore. The reports of the first two missions will be presented by the independent expert to the working group. The independent expert undertook his third mission in November 2001 in response to Commission resolution 2001/9 (para. 3), setting as the mission's objective the elaboration of a development compact. To this end, the independent expert visited national and intergovernmental development agencies in the Netherlands and the United Kingdom of Great Britain and Northern Ireland, as well as the World Bank and the International Monetary Fund (IMF) in Washington and the Organisation for Economic Co-operation and Development in Paris. The report of the mission will be presented to the open-ended working group on the right to development at its third session.

4. OHCHR prepared the report of the Secretary-General to the General Assembly at its fifty-sixth session on the right to development (A/56/256), containing replies received from Governments to a note verbale of the Office dated 30 April 2001. The Office made the report available to the third session of the open-ended working group on the right to development. The Office also prepared a report of the Secretary-General to the Sub-Commission on the Promotion

and Protection of Human Rights entitled "Promoting the right to development in the context of the United Nations Decade for the Elimination of Poverty (1997-2006)". The Office sent a letter to United Nations bodies and agencies, inviting them to provide information on their activities in this regard. Replies were received from the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), IMF, the International Labour Office and the United Nations Population Fund (UNFPA). The report is available as document E/CN.4/Sub.2/2001/11.

5. OHCHR organized several seminars in 2001 that had direct bearing on the promotion of the right to development. From 8 to 10 May 2001, the Office organized a seminar in Kuala Lumpur on globalization and its impact on the full enjoyment of economic, social and cultural rights and the right to development. The workshop took place within the context of the Tehran Framework for Technical Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region and included discussion on health, children, labour rights, migration, development and enhancing international cooperation.

6. In July 2001, the Office helped organize, in coordination with the Asia-Pacific Forum of National Human Rights Institutions and the Hong Kong Equal Opportunity Commission, a seminar in Hong Kong on the right to development and economic, social and cultural rights. The seminar made several recommendations concerning the right to development, including calling on national human rights institutions to become more involved in national development planning processes. The seminar also called on national human rights institutions to work with government officials and civil society to increase their understanding of and to promote the concept of participatory development.

7. From 24 to 27 October 2001 in Buenos Aires, the Office organized a regional workshop for the Latin American region on the promotion of economic, social and cultural rights. The workshop was the first organized under the Technical Cooperation Programme and focused on a range of issues including: the right to development and poverty reduction, labour rights, the rights to food, health, education and housing, structural adjustment programmes, international cooperation, indigenous peoples and racial discrimination.

8. The Office also organized the First African Regional Dialogue on "Human rights, the African Union and the new partnership for African development" in Geneva from 5 to 7 November 2001. Among the topics discussed was the "Human right to development".

9. OHCHR has continued to service the treaty bodies, some of whose work contributes to the promotion of the right to development. In May 2001, the Committee on Economic, Social and Cultural Rights adopted a statement on poverty (E/C.12/2001/10) in which it recognized the link between poverty and the right to development. In paragraph 10 of that statement, the Committee emphasized that the normative framework relevant to poverty eradication encompasses the entire range of civil, cultural, economic, political and social rights, and the right to development. Further, in paragraph 21, in relation to international structural obstacles to the eradication of poverty, such as unsustainable foreign debt, the widening gap between rich and

poor, and the absence of an equitable multilateral trade, investment and financial system, the Committee noted article 3.3 of the Declaration on the Right to Development, which sets out that "States have a duty to cooperate with each other in ensuring development and eliminating obstacles to development".

10. In May 2001, the High Commissioner participated in the third United Nations Conference on the Least Developed Countries. The Office prepared a background paper for the Conference, highlighting the link between human rights and poverty and governance in the context of the least developed countries and forwarded to the Conference the poverty statement of the Committee on Economic, Social and Cultural Rights to the Conference, highlighting the essential link between respect for human rights and poverty eradication. The Office linked HIV/AIDS to human rights and developmental issues in a background paper it prepared for the special session of the General Assembly on HIV/AIDS in May 2001. It is also involved in preparations for the International Conference on Financing for Development, which will take place in Monterrey, Mexico, in March 2002. The High Commissioner addressed the preparatory committee in October 2001, emphasizing the need for human rights approaches to international cooperation for development.

11. The programme of technical cooperation in the field of human rights, administered by OHCHR provides comprehensive assistance in the area of the rule of law, focusing inter alia on national courts, police, prisons, parliaments, national human rights commissions, human rights NGOs, national plans of action for human rights and legislative drafting. It has focused on the domestic implementation of international human rights standards (civil, cultural, economic, political and social) since its inception. In 2001, 40 projects were being executed in 22 countries in Africa, Asia, Latin America, the Middle East and Central and Eastern Europe.

12. In order to improve the dissemination of information concerning the right to development, the Office of the High Commissioner has undertaken several initiatives. The Office and UNDP have produced a training module on human rights in development and OHCHR is in the process of redesigning its Web page entry on "human rights in development", reorganizing and adding to information on development and breaking it down into links on the right to development, rights-based approaches to development, mainstreaming human rights, poverty, good governance and globalization.

II. IMPLEMENTATION OF RESOLUTIONS OF THE GENERAL ASSEMBLY AND THE COMMISSION ON HUMAN RIGHTS ON THE RIGHT TO DEVELOPMENT

13. The High Commissioner believes that a wide range of additional activities also promote the right to development. The following activities are grouped according to development-related issues identified in General Assembly resolution 55/108 and Commission resolution 2001/9.

Poverty

14. In paragraph 3 of its resolution 55/108 the General Assembly identified widespread absolute poverty as an obstacle to the enjoyment of the right to development. OHCHR has several activities directly relating to human rights and poverty. The Office has assisted the

independent expert on human rights and extreme poverty in the preparation and conduct of two missions in 2001 - to Bolivia and to Benin. The objectives of the missions were to assess the effectiveness of anti-poverty programmes and strategies by meeting with government officials, representatives of non-governmental organizations and poor people's associations, as well as United Nations and international financial organizations with offices situated in either country. The independent expert will submit the reports of her missions to the Commission at its fifty-eighth session.

15. OHCHR organized an expert seminar on human rights and poverty, from 7 to 9 February 2001 in Geneva. The participants in the expert seminar acknowledged the need for a new text that would build on existing human rights norms and standards in a manner that explicitly addressed the phenomenon of poverty, and in particular extreme poverty. The majority of participants were in favour of guiding principles as a means of encouraging human rights responses to poverty. The report of the seminar was submitted to the Commission at its fifty-seventh session (E/CN.4/2001/54/Add.1 and Corr.1).

16. In its statement on poverty, the Committee on Economic, Social and Cultural Rights included a rights-sensitive definition of poverty: "sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights" (E/C.12/2001/10, para. 8).

17. OHCHR assisted in the organization, on 13 August 2001, during the fifty-third session of the Sub-Commission on the Promotion and Protection of Human Rights, of a preparatory panel discussion on the Social Forum. The Sub-Commission held the preparatory panel to clarify the concept, role, focus and practical objectives of the Social Forum. The High Commissioner for Human Rights and the Secretary-General of the United Nations Conference on Trade and Development participated in the Panel. The participants agreed that the Social Forum should enable the voices of the most vulnerable to be heard and there was unanimous agreement that poverty reduction should be the overall theme of the Social Forum.

Globalization and trade

18. The Commission, in paragraph 20 of its resolution 2001/9 and the General Assembly in paragraph 4 (e) of its resolution 55/108 recognized that developing countries face difficulties participating in the globalization process and risk being marginalized and effectively excluded from its benefits. On the subject of globalization, OHCHR organized the Kuala Lumpur seminar mentioned above and, in particular, the High Commissioner submitted a report on the impact of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intel'ectual Property Rights (the TRIPS Agreement) on human rights (E/CN.4/Sub.2/2001/13), in which it is pointed out that members of WTO are bound by human rights norms and standards when negotiating and implementing trade rules. The report focuses in particular on the right to health and demonstrates ways in which the flexibilities in WTO rules can be used to promote and protect human rights.

19. In August 2001, representatives of OHCHR participated in a forum on "International trade and human rights" hosted by the World Trade Institute, in Bern. The forum examined various aspects of economics, trade law and human rights as a means of drawing a link between human rights and international trade. The forum included a case study on links between trade, intellectual property protection and the enjoyment of the right to health. Two representatives of the Office made presentations to the forum.

20. In August 2001, the Special Rapporteurs on globalization submitted their second report to the Sub-Commission (E/CN.4/Sub.2/2001/10). The report focused on how individuals are affected by globalization while at the same time highlighting the role of States, non-State actors and international institutions as critical participants in globalization. Amongst other things, the report considers the obligations of the World Bank and the IMF under international human rights law and suggests the drafting of human rights guidelines for these organizations.

Good governance

21. In paragraph 11 of its resolution 2001/9 the Commission stressed the need at the national level for democratic, participatory, transparent and accountable governance. In paragraph 12 of the same resolution, it also stressed the need to prevent, address and take effective action against corruption at both the national and international levels. In paragraph 3 of resolution 2000/64, the Commission requested the High Commissioner for Human Rights to invite States to provide practical examples of activities that have been effective in promoting good governance, including activities in the context of development cooperation between States, for inclusion in a compilation of indicative ideas and practices (an activity that is currently under development). In 2001, pursuant to a request of the Commission to the High Commissioner contained in resolution 2001/72, that invitation was reiterated to States and extended to development agencies and international financial institutions. The Office continues to collect materials and contributions for eventual publication in the compilation, all of which are available for consultation in its files.

Women's access to land

22. In paragraph 15 of resolution 2001/9, the Commission affirmed the promotion of gender equality and the empowerment of women as effective means to combat poverty, hunger and disease and to stimulate sustainable development, as well as the importance of equal rights and opportunities for women and men, including property rights for women and their access to bank loans, mortgages and other forms of financial credit, taking into account the best practices of micro-credit in different parts of the world. In resolution 2001/34, entitled "Women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing", the Commission invited the Office of the High Commissioner, the treaty bodies, the United Nations Centre for Human Settlements to address discrimination against women. Both the High Commissioner and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living raised the issue of women's access to land in the context of the special session of the General Assembly for an overall review and appraisal of the implementation of the Habitat agenda, held in New York in June 2001.

Children

23. In paragraph 17 of its resolution 2001/9, the Commission affirmed that attention should be given to the right to development of children, with special attention to the rights of the girl child. At its latest session, the Working Group on Contemporary Forms of Slavery continued its discussion on the economic exploitation of children in the context of child-bonded labour. The report of the Working Group is available as document E/CN.4/Sub.2/2001/30.

Structural adjustment programmes and debt

24. In paragraph 21 (d) of resolution 2001/9 the Commission recognized the need to enhance efforts to consider the impact of international economic and financial issues on the enjoyment of human rights, such as debt burden. The independent expert on structural adjustment programmes and foreign debt submitted his third report to the Commission on Human Rights in 2001. It focused on the integration of human rights in the World Bank and IMF Poverty Reduction Strategy Papers (PRSPs). The report is available as document E/CN.4/2001/56.

Minorities and indigenous peoples

25. In paragraph 16 of resolution 2001/9 the Commission underlined the need to give special attention to persons belonging to minorities including indigenous peoples. OHCHR has been involved in several initiatives concerning minorities, indigenous people and the right to development. In London, from 26 to 27 July, the Office supported a seminar organized by Minority Rights Group International on "Tackling poverty and discrimination: mainstreaming minority rights in development assistance". In Durban, at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in September 2001, the Office organized a seminar on "Cooperation for the better protection of the rights of minorities". Participants stressed that development must be understood and operationalized in ways that took into consideration the values and lifestyles of the minorities concerned. Participants also noted that even where development projects benefited a majority of the population, such projects might negatively affect disadvantaged groups - a situation that could generate or intensify conflict.

26. The nineteenth session of the Working Group on Indigenous Populations, which took place from 23 to 27 July 2001, had as its theme "Indigenous peoples and their right to development, including their right to participate in development affecting them". The Working Group considered many topics, including the concept of development, human rights in development, participation in development and democracy, self-determination, self-development and the right to land, implementation of national legislation and international treaties, militarization, conflict and military bases, private sector development and its impact, globalization, sustainable development and indigenous enterprises, and the role of international agencies and bodies. The report of the Working Group is available as document E/CN.4/Sub.2/2001/17.

27. OHCHR will also be involved in future work linking minority rights to development. The Working Group on Minorities of the Sub-Commission is taking as its principal theme for its 2002 and 2003 sessions the participation of minorities in public life and development. In Botswana, in February 2002, the Office is convening the third meeting on multiculturalism in

Africa, focusing on the participation of minorities and indigenous peoples in the formulation, implementation and evaluation of development policies. In March 2002, the Office is convening another seminar for the Americas concerning people of Afro-American descent, which will have development assistance as its principal theme.

HIV/AIDS

28. In paragraph 16 of resolution 2001/9 the Commission underlined that special attention should be given to persons infected with HIV/AIDS in the process of the realization of the right to development. The Declaration of the World Conference against Racism expressed deep concern that people infected with, or affected by, HIV/AIDS, as well as those presumed to be infected, belong to groups vulnerable to racism, racial discrimination, xenophobia and related intolerance. States recognized that this has a negative impact and impedes access to health care and medication. In the Programme of Action, States have undertaken to strengthen national institutions to promote and protect the human rights of victims of racism who are also infected with HIV/AIDS, as well as to ensure access to HIV/AIDS medication and treatment.

National institutions

29. In paragraph 18 of resolution 2001/9 the Commission acknowledged the need to continue discussion on the role of civil society in the realization of the right to development and the role of national institutions in that respect. OHCHR has contributed to this aspect of national institutions work through support to the Third Conference of African National Human Rights Institutions, held in Lomé, in March 2001. Conference participants recognized the role of women in achieving sustainable development and encouraged national institutions to play an active role in the prevention and cure of HIV/AIDS.

III. INTER-AGENCY COORDINATION WITHIN THE UNITED NATIONS SYSTEM FOR THE IMPLEMENTATION OF RELEVANT RESOLUTIONS OF THE COMMISSION

30. In its work to integrate human rights into the development policies and programmes of the United Nations system since 1997, OHCHR has sought to promote the right to development as a specific human right. As a means of giving operational effect to the right to development, OHCHR has advocated a rights-based approach to development. This approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development. The norms and standards are those contained in the wealth of international human rights treaties and declarations, including the 1986 Declaration on the Right to Development. The principles include those of participation; accountability; non-discrimination and attention to vulnerability; empowerment; and explicit linkage to the international human rights instruments.

31. OHCHR, with system-wide support, has contributed to the integration of human rights in the United Nations Common Country Assessment (CCA) Guidelines; the United Nations Development Assistance Framework (UNDAF) Guidelines; the United Nations System-Wide Strategy for Halving Extreme Poverty; the Administrative Committee on Coordination (ACC) Guidelines on Human Rights for the Resident Coordinator System; the ACC System-Wide

Matrix on Good Governance; the UNDAF/CCA Training Module for United Nations Country Teams; and the UNDG Training Module on Poverty for Country Teams. Also with OHCHR support, agency-specific materials have been produced for UNDP and countless Resident Coordinators, United Nations resource persons, development officers and United Nations Volunteers, who have been trained in rights-based development.

32. OHCHR continued its work with other organizations throughout 2001, focusing on four main initiatives, namely (i) support to United Nations country teams in the mainstreaming of human rights (the MASCOT project), (ii) human rights and poverty reduction, (iii) training of United Nations staff within the framework of the UNDG, and (iv) learning lessons on how to mainstream human rights into UNDP development programming (the HURIST project). Each is described, in turn, below.

The mainstreaming of human rights, support for country teams (MASCOT) project

33. The MASCOT project aims to support United Nations country teams in the mainstreaming of human rights including through rights-based development. To this end, OHCHR is evaluating how to enhance its operational support to country teams' efforts to integrate human rights into the CCA/UNDAF, through their joint country analyses, strategies and programming. The preparatory needs and capacity assessment phase will result in a longer-term programme to identify and meet the needs of United Nations country teams for undertaking rights-based development. The short-term objective of the MASCOT project is to define the Office's strategy for cooperation within the United Nations - at the global and country levels - in the context of strengthened and systematic support to United Nations country teams and human rights mainstreaming in the CCA/UNDAF process and to establish the basis for increasing the Office's capacity to provide such support. In 2001, an expert team was assembled under the project and consultations with agencies and programmes in New York and Geneva were followed by field visits to country teams in Tanzania, Nepal, Colombia and Nicaragua.

Human rights in poverty reduction strategies

34. Further to its statement on poverty, the Committee on Economic, Social and Cultural Rights has requested the assistance of OHCHR in the development of guidelines to integrate human rights into poverty reduction strategies. The long-term objective of such an initiative would be to enhance the effectiveness and sustainability of poverty reduction strategies.

UNDG training module

35. Working together in a joint initiative with its sister agencies and programmes within the United Nations Development Group (UNDG), OHCHR continued in 2001 to support the development and delivery of system-wide training on rights-based development for United Nations country teams. The principal product of this cooperation in 2001 was a draft human rights training module, together with a plan for the training of United Nations system trainers at the United Nations Staff College, and, through them, the training of country teams. The module, to be piloted and refined in 2002, will support the development of knowledge and

skills necessary to integrate human rights, including the right to development, in CCA, UNDAF and joint programming, including all phases of the programming cycle: assessment, analysis, strategic development, project formulation, implementation, monitoring and evaluation.

HURIST project

36. Launched in 1999, the HURIST (human rights strengthening) project is a joint project of OHCHR and UNDP designed to define and test methodologies, identify best practices and provide opportunities on how to mainstream human rights in sustainable human development. The project supports learning through activities in five areas: national plans of action for human rights; human rights in particular areas of sustainable human development; promotion of ratification of human rights treaties; and placement of United Nations Volunteers (UNVs) in UNDP country offices to support their human rights capacities; and support for global dialogue on human rights and globalization. In 2001, a mid-term review of the project was undertaken by a team of experts, jointly appointed by OHCHR and UNDP, who travelled to Geneva, New York, Sana'a, Ulaanbaatar and Kathmandu. Their report then informed a joint review and revision of the project by the two project partners. The review concluded that HURIST had already had significant impacts in terms of awareness raising and national human rights action plans. It recommended that the second phase of the project should concentrate on clarifying in practical terms what is meant by mainstreaming, identifying good practices and lessons learned, and understanding how practitioners should integrate human rights into their work. During 2002, OHCHR and UNDP will work together to implement these findings in UNDP programmes.